

Local Environmental Protection Program

General Terms and Conditions

- I. KDHE agrees to:
 - A. Remit 100% of the total grant amount on or about August 15, 2008, or upon processing of signed grant agreement.
 - B. Provide technical assistance to counties for the development and implementation of the Local Environmental Protection Program.
- II. Grant recipient agrees to:
 - A. Implement the local environmental protection plan.
 - B. Submit quarterly affidavits of expenditures via the Kansas Clean Waters system and keep the performance reports up to date on the Kansas Clean Waters per the following schedule:
 - 1. October 15, 2008 - submit affidavit of expenditures and update performance report database on the Kansas Clean Waters system;
 - 2. January 15, 2009 - submit affidavit of expenditures and update performance report database on the Kansas Clean Waters system;
 - 3. April 15, 2009 - submit affidavit of expenditures and update performance report database on the Kansas Clean Waters system;
 - 4. July 15, 2009 - submit affidavit of expenditures and submit performance report due on the Kansas Clean Waters system.
 - C. Grant funds will not be used to replace current local funding for environmental services or to replace funding which is available through other state or federal grants.

- D. Establish and maintain an accounting system that meets the requirements of generally accepted accounting principles of recording and reporting receipts, obligations, and expenses for the grant and local matching funds.
- E. Maintain payroll records supported by time and attendance records for individual employees. Salaries and wages of employees chargeable to more than one program or cost objective will be supported by time and distribution records.
- F. Afford access, upon written request, to the Secretary of Health and Environment or designated representative or Kansas Division of Legislative Post Audit, to any document or other records necessary to certify compliance with state grant award, Kansas Legislative Appropriations, Kansas Statutes, and Federal grant acts and regulations.
- G. Comply with all relevant federal requirements including, but not limited to: the Age Discrimination Act of 1975; Section 504 of the Rehabilitation Act of 1973; Title IX of the Educational Amendments of 1972; Title VI of the Civil Rights Act of 1964; the Recipient Certification requirement of the Drug Free Workplace Act of 1988; The Federal Anti-Lobbying Act of 1990; the Federal Pro-Children Act of 1994 and to submit a signed certification regarding tobacco smoke to KDHE, which is incorporated by reference into this contract.
- H. Comply with Kansas Statutes and rules and regulations pertaining to public health and the environment.
- I. Obtain prior written approval from KDHE before making any expenditure from grant funds in excess of \$500.00 not included in the approved budget.
- J. Obtain prior written approval from KDHE before entering into any subcontract related to this contract and/or any amendment to this contract.
- K. Participate fully in any required evaluation study and/or on-site inspection arranged within normal working hours.

- L. Obtain an independent audit in accordance with Generally Accepted Auditing Principles (GAAP) for each fiscal year in which LEPP funds are received.
- M. Upon notice by KDHE, return to KDHE within 30 days of the end of the contract period all unexpended and/or unencumbered grant funds.
- N. Notify KDHE if the grant recipient is not going to participate in the next year's program or if a county wishes to separate from a Group. The grant recipient will notify KDHE in writing 90 days before the end of the contract period.

III. Both parties mutually agree to:

- A. Funding of this agreement is contingent upon the receipt of State funding and the availability of funds in the State Treasury.
- B. KDHE may cancel this agreement if grant recipient fails to submit expenditure affidavits and maintain performance report database. This shall constitute a failure of performance and KDHE may require the grant recipient return all grant funds to KDHE.
- C. This agreement may be amended as necessary. Such amendments shall be in writing and duly executed by both parties.
- D. The provision found in Contractual Provision Attachment (Form DA-146a), which is attached hereto, are hereby incorporated into and made part of this agreement.
- E. The provision found in grant award amendment(s) which are, or hereafter may be, attached hereto and executed by the parties to this agreement, are hereby incorporated into and made part of this agreement.
- F. The terms and provision of this agreement shall extend to and become binding upon the heirs, executors, administrators, and/or the respective parties hereto.

CONTRACTUAL PROVISIONS ATTACHMENT

Important: This form contains mandatory contract provisions and must be attached to or incorporated in all copies of any contractual agreement. If it is attached to the vendor/contractor's standard contract form, then that form must be altered to contain the following provision:

"The Provisions found in Contractual Provisions Attachment (Form DA-146a, Rev. 1-01), which is attached hereto, are hereby incorporated in this contract and made a part thereof."

The parties agree that the following provisions are hereby incorporated into the contract to which it is attached and made a part thereof, said contract being the _____ day of _____, 20_____.

1. **Terms Herein Controlling Provisions:** It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the contract in which this attachment is incorporated.
2. **Agreement With Kansas Law:** All contractual agreements shall be subject to, governed by, and construed according to the laws of the State of Kansas.
3. **Termination Due To Lack Of Funding Appropriation:** If, in the judgment of the Director of Accounts and Reports, Department of Administration, sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of the charges hereunder, State may terminate this agreement at the end of its current fiscal year. State agrees to give written notice of termination to contractor at least 30 days prior to the end of its current fiscal year, and shall give such notice for a greater period prior to the end of such fiscal year as may be provided in this contract, except that such notice shall not be required prior to 90 days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year, to take possession of any equipment provided State under the contract. State will pay to the contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any such equipment. Upon termination of the agreement by State, title to any such equipment shall revert to contractor at the end of State's current fiscal year. The termination of the contract pursuant to this paragraph shall not cause any penalty to be charged to the agency or the contractor.
4. **Disclaimer Of Liability:** Neither the State of Kansas nor any agency thereof shall hold harmless or indemnify any contractor beyond that liability incurred under the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.).
5. **Anti-Discrimination Clause:** The contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 et seq.) and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) (ADA) and to not discriminate against any person because of race, religion, color, sex, disability, national origin or ancestry, or age in the admission or access to, or treatment or employment in, its programs or activities; (b) to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer"; (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration; (f) if it is determined that the contractor has violated applicable provisions of ADA, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration.

Parties to this contract understand that the provisions of this paragraph number 5 (with the exception of those provisions relating to the ADA) are not applicable to a contractor who employs fewer than four employees during the term of such contract or whose contracts with the contracting state agency cumulatively total \$5,000 or less during the fiscal year of such agency.
6. **Acceptance Of Contract:** This contract shall not be considered accepted, approved or otherwise effective until the statutorily required approvals and certifications have been given.
7. **Arbitration, Damages, Warranties:** Notwithstanding any language to the contrary, no interpretation shall be allowed to find the State or any agency thereof has agreed to binding arbitration, or the payment of damages or penalties upon the occurrence of a contingency. Further, the State of Kansas shall not agree to pay attorney fees and late payment charges beyond those available under the Kansas Prompt Payment Act (K.S.A. 75-6403), and no provision will be given effect which attempts to exclude, modify, disclaim or otherwise attempt to limit implied warranties of merchantability and fitness for a particular purpose.
8. **Representative's Authority To Contract:** By signing this contract, the representative of the contractor thereby represents that such person is duly authorized by the contractor to execute this contract on behalf of the contractor and that the contractor agrees to be bound by the provisions thereof.
9. **Responsibility For Taxes:** The State of Kansas shall not be responsible for, nor indemnify a contractor for, any federal, state or local taxes which may be imposed or levied upon the subject matter of this contract.
10. **Insurance:** The State of Kansas shall not be required to purchase, any insurance against loss or damage to any personal property to which this contract relates, nor shall this contract require the State to establish a "self-insurance" fund to protect against any such loss or damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.), the vendor or lessor shall bear the risk of any loss or damage to any personal property in which vendor or lessor holds title.
11. **Information:** No provision of this contract shall be construed as limiting the Legislative Division of Post Audit from having access to information pursuant to K.S.A. 46-1101 et seq.
12. **The Eleventh Amendment:** "The Eleventh Amendment is an inherent and incumbent protection with the State of Kansas and need not be reserved, but prudence requires the State to reiterate that nothing related to this contract shall be deemed a waiver of the Eleventh Amendment."